

# **INFORMATION SHEET**

## **DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

DISTRICT OFFICE: Saint Paul District  
FILE NUMBER: MVP-2006-6537-DJP  
PROJECT MANAGER: Dale Pfeiffle

PROJECT REVIEW/DETERMINATION COMPLETED: In the office? Y ☒ N ☐ Date: Jan..25 , 2007  
At the project site? Y ☐ N ☐ Date:

### **PROJECT LOCATION INFORMATION:**

State: Wisconsin  
County: Walworth  
Center coordinates of site by latitude & longitude: 42.5009569723N, 88.2642028136  
Approximate size of site/property (including uplands) in acres: 106  
Name of waterway or watershed: Upper Fox, Illinois, Wisconsin

| Type of Aquatic Resource1:  | 0-1 ac | 1-3 ac | 3-5 ac | 5-10 ac    | 10-25 ac | 25-50 ac | > 50 ac | Linear Ft | Unknown |
|-----------------------------|--------|--------|--------|------------|----------|----------|---------|-----------|---------|
| Lake                        |        |        |        |            |          |          |         |           |         |
| River                       |        |        |        |            |          |          |         |           |         |
| Stream                      |        |        |        |            |          |          |         |           |         |
| Mudflat                     |        |        |        |            |          |          |         |           |         |
| Sandflat                    |        |        |        |            |          |          |         |           |         |
| Wetlands                    |        |        |        | 8.79 acres |          |          |         |           |         |
| Slough                      |        |        |        |            |          |          |         |           |         |
| Prairie Pothole             |        |        |        |            |          |          |         |           |         |
| Wet Meadow                  |        |        |        |            |          |          |         |           |         |
| Playa Lake                  |        |        |        |            |          |          |         |           |         |
| Vernal Pool                 |        |        |        |            |          |          |         |           |         |
| Natural Pond                |        |        |        |            |          |          |         |           |         |
| Other Water (identify type) |        |        |        |            |          |          |         |           |         |

1 Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

| Migratory Bird Rule Factors1  | If Known |    | If Unknown<br>Use Best Professional Judgment |                       |                                |
|---|----------|----|--|-----------------------|--------------------------------|
|   | Yes      | No | Predicted to Occur                           | Not Expected to Occur | Not Able to Make Determination |
| Is or would be used as habitat for birds protected by Migratory Bird Treaties?  |          |    | X  |                       |                                |
| Is or would be used as habitat by other migratory birds that cross state lines? |          |    | X  |                       |                                |
| Is or would be used as habitat for endangered species?                          |          |    |  | X                     |                                |
| Is used to irrigate crops sold in interstate commerce?                          |          |    |  | X                     |                                |

1 Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary ☐ Or Approved: ☒

FILE NUMBER: MVP-2006-6537-DJP

ADDITIONAL INFORMATION SUPPORTING njd (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite): A wetland delineation report was received at the Waukesha office for review and concurrence. The review of the delineation report, the supporting data sheets, and information available on the Walworth County IMS (aerial photography and topographic mapping) indicates that the wetland boundaries have been correctly identified and are adequate to establish the extent of Corps jurisdiction.

The wetland delineation identified 10-separate wetlands areas with a combined surface area of 11.03 acres at the 106-acre site. Five wetlands with a combined surface area of 2.24 acres were identified along a tributary to Elizabeth Lake, which is an impoundment of an unnamed tributary to the Fox River, a navigable water of the US and are therefore jurisdictional waters of the US.

The other 5-wetlands with a combined surface area of approximately 8.79 acres are confined to isolated depressions that lack a surface water connection and adjacency to nearby Elizabeth Lake tributary. Connections between the wetlands and interstate commerce was also considered but could not be identified. Therefore, these wetlands are isolated waters that would not be subject to Corps Section 404 jurisdiction.